



**Audit Report on Onondaga County
Sheriff's Office Civil Bank Account
September 25, 2024**

By Onondaga County Comptroller Martin D. Masterpole

Report Index

Report Section	Section Name	Page Number
I	Background & Executive Summary	2
II	Scope and Methodology	5
III	Findings	6
IV	Management Response	13

SECTION I

BACKGROUND & EXECUTIVE SUMMARY

Background

This report is the fourth in a series of audits to be done on all grant, trust and agency and/or cash accounts the Onondaga County Sheriff's Office (OCSO) has in partnership with various banking institutions. The auditing of these accounts, and of the procedures and controls in place for them, was requested by the incoming Onondaga County Sheriff who took office on January 2, 2023.

The Sheriff's Office is comprised of four departments that are responsible for providing a wide range of services to Onondaga County residents. One of them, the Civil Department, has a stated mission to "exercise its responsibilities to professionally receive, serve and execute all civil process and orders that have been issued by a legal authority in a reasonable and timely manner while maintaining an impartial stance between all parties having an interest in a case." (Source: <https://sheriff.ongov.net/civil/>)

The Main Civil Checking account is the focus of this report. Its primary purpose is to hold money collected from a debtor or a debtor's employer (via garnishment of wages) for income executions (i.e. for debt owed on loans, civil judgments, etc.). These funds, less applicable fees and expenses called poundage, are remitted to the attorneys who turn the money over to their clients as compensation for court-awarded damages. An accounting system named CivilServe is used by the Sheriff's Office to monitor the account.

As noted from the website of the New York State Comptroller's Office website, "the Civil Practice Law and Rules, §8012 (b) (1); COUNTY LAW, §650 states the "Sheriff is entitled to poundage fees on income executions amounting to 5% of the principal and interest collected. Poundage is collected in addition to principal and interest, and should be withheld from each installment". (Source: <https://www.osc.ny.gov/>)

In some instances, the money remitted to the appropriate party in the form of a check is not cashed. After two years, if the money remains unclaimed, these funds are required to be remitted to the State Comptroller's Office, along with accurate supporting information, as "unclaimed funds". This process is to be completed once a year and there are required steps and a specific calendar of events to adhere to.

In 2015, the Onondaga County Comptroller's Office performed an audit on the main Civil Sheriff's Office checking account. There were several findings in the audit. Recommendations for addressing the findings included:

- Sheriff's Office staff duties should be separated so that no one person could control whole transactions and thus, possibly conceal errors or irregularities.
- A system of tracking follow-up billings or unpaid balances should be implemented.

- Office procedures should align with the County’s “Cash Management & Revenue Collection Practices” manual (dated 7/13/09) and those procedures should be adhered to.

Failure to implement our recommendations led to misappropriations of funds from this account and the Onondaga County District Attorney’s Office requesting an independent review of this account and the Petty Cash fund by a local CPA firm. The review made several recommendations as a means of improving internal controls. Many of the recommendations from the CPA firm were similar to those from the 2015 Comptroller’s Office audit. Some of those recommendations included:

- Ensuring controls/processes are performed consistently and in a timely manner
- Implementing a process for month-end reconciliations to be prepared in a more timely manner reviewed by an individual with financial knowledge
- Formally documenting and regularly reviewing procedures for daily deposits
- Updating and implementing the Onondaga County Sheriff’s Office’s written directives related to financial transactions
- Filling some open Sheriff’s Office vacancies with individuals possessing financial backgrounds

Executive Summary

During the course of the audit the following issues came to our attention:

- Noncompliance with NYS Unclaimed Funds laws and practices
- Noncompliance with previously indicated corrective actions
- Noncompliance with CPA firms recommendations
- Improper segregation of duties allowed for the concealment of errors and irregularities
- Noncompliance with Sheriff’s Office Written Directive for “CVL-008 Financial Transactions”
- Improperly completed bank reconciliations
- Bank flagged and stopped a 2021 ACH payment
- Check written to different payees as compared to the check register
- NYS Unclaimed Funds process lacks supervision
- Potential liable of interest and penalties due to noncompliance

Our high level recommendations include:

- *Sheriff’s administration and assigned staff should become familiar with the NYS Unclaimed Funds processes and their own written directives.*
- *Sheriff’s administration implement procedures and controls to more closely monitor and contact payees with multiple outstanding checks.*

- *Consideration should be given to wiring funds to Onondaga County.*
- *Incompatible job responsibilities should be reassigned to improve internal controls.*

SECTION II

SCOPE AND METHODOLOGY

Time Period Covered: 1/1/23 – 5/31/23

Objectives:

- Evaluate compliance with financial review performed by Bonadio & Co.
- Determine if proper segregation of duties exists in relation to the cash collection activities.

Methodology:

- Review laws, policy, procedures and regulations.
- Conduct interviews with managers and staff related to the approval, activity and reconciliation of the Sheriff's accounts.
- Walk-through of internal controls for transaction cycles regarding monetary collections and disbursements.
- Test controls and evaluate their effectiveness; including physical controls, segregation of duties, supervision, reconciliation, etc.,
- Review previous audit completed in 2015 to examine former findings, recommendations and Sheriff's corrective action to compare to current findings.
- Reviewed and discussed our findings and recommendations with the department's management for inclusion in this report.
- Consulted with County Law Department and New York State Unclaimed Funds Department.

SECTION III FINDINGS

The following is an excerpt from the previous audit performed on this account. This includes our finding and recommendation along with OCSO corrective action to be implemented to rectify the situation.

CC. We noted from a review of the Commercial Checking bank reconciliation for September 2015 a number of outstanding checks ranging from January 2013 through March 2015 for a total of \$31,007.08.

Recommendation:

34. We recommend review procedures are implemented and appropriate measures taken to address old outstanding checks.

OCSO Action:

To reduce the number of outstanding checks, the Sheriff's Office added the wording "void after 180 days" to each check. All checks issued after April of 2016 have this notation. If a check is outstanding after 180 days, we will follow the appropriate procedures for the NYS Unclaimed Funds. The checks that were outstanding prior to this procedure will be identified and if the recipient cannot be located, we will follow the procedures for NYS Unclaimed Funds.

1. Finding:

We noted the Sheriff's Office is not following their response to our previous audit of voiding checks after 180 days nor is it complying with the NYS Abandoned Property law (APL) which requires organizations holding unclaimed property report property deemed abandoned under the law to the NYS Comptroller's Office of Unclaimed Funds (OUF). Based on our general understanding of APL and the Handbook for Reporters of Unclaimed Funds, as well as correspondence from the County Law Department and the Department of New York State Unclaimed Funds, the funds deposited and distributed from the Civil account should be considered abandoned if left unclaimed after two (2) years.

We noted based on our interpretations of NYS Comptroller's Opinion 88-12 and 97-7, addressed similar funds deemed as unclaimed and abandoned, indicated they should be placed in a trust and agency fund. Based on a review outstanding checks this is not taking place and contributed to the larger than necessary balance of funds remaining in the account of which a portion was misappropriated.

We estimated based on the above understanding, the Sheriff's past corrective action plan, and a review of the Commercial Checking's outstanding check list as of 4/30/24 which included 711 checks totaling \$226,500, approximately \$202,167 should be considered as abandoned and reported to the OUF and \$14,598 is past the 180 day threshold and can be transferred to a trust and agency account. This is illustrated in the following table:

**Summary of Outstanding Checks
by Year
as of April 2024**

Year	Count	Amount
2013	1	\$ 3.62
2014	3	201.29
2015	10	2,047.15
2016	49	6,468.76
2017	67	4,192.82
2018	76	6,653.16
2019	81	10,465.62
2020	104	28,472.26
2021	118	28,879.30
2022	100	114,782.96
Abandoned Two Years		<u>\$ 202,166.94</u>
1/2023 - 11/2023	69	14,598.38
Past 180 days	678	<u>216,765.32</u>
12/23 - 4/2024	33	<u>9,735.20</u>
Total	<u>711</u>	<u>\$ 226,500.52</u>

As of 4/2024, 33 outstanding checks are with in the
180 day cutoff period.

We also summarized and listed the top ten payees which totaled 74 checks and ranged from 20 to 4 checks, totaling \$125,503, of which Onondaga County makes up \$98,570 of this balance. The remaining 637 payee ranged from 3 to 1 check respectively, totaling \$100,998. This is illustrated in the following table:

**Summary of Outstanding Checks
as of 4/30/2024**

Check Name (Payee)	Number of Outstanding Checks	Amount
Ann W Manion Attorney at Law	20	\$ 4,684.16
United Parcel Service	14	1,402.30
Portfolio Recovery Associates LLC	7	2,689.38
Eric Burns	6	2,086.27
Judgment Recovery Partners	6	4,640.90
Marine Midland Bank (NKA Capital One)	5	291.43
County of Onondaga	4	98,569.74
Eltman Law, PC	4	2,770.43
Fulton Friedman & Gullace LLP	4	6,492.17
Joseph C Massocco	4	1,875.80
Sub Total	74	\$125,502.58
Summary of Remaining Payees		
11 payees have 3 checks	33	
71 payees have 2 checks	142	
462 payees have 1 check	462	
Sub Total	637	\$100,997.94
Total	711	\$226,500.52

Recommendation:

We recommend to safe guard unclaimed funds after the 180 days and facilitate the Sheriff's reconciliation process as well as circumventing the misappropriation of these funds, Sheriff's administration should work closely with the County's Finance department to create a Trust and Agency Fund, establish controls, procedures, and assign responsibilities for depositing and tracking these funds until which time they should be reported to the OUF. Assigned employees should become familiar with the procedures outlined in the Unclaimed Funds Handbook. We further suggest Sheriff's administration implement procedures and controls to more closely monitor and contact payees with multiple outstanding checks, such as professional law offices which more than likely have a website and contact information should be readily available. It should also resolve the outstanding checks payable to Onondaga County and consideration should be given to wiring funds to Onondaga County.

2. **Finding:** We noted the recommendations to address the improper segregation of duties from our previous report, see below, was not fully implemented and resulted in misappropriation of funds from this account. We noted incompatible functions are still being performed by a single individual as now an Administrative Aide is preparing and issuing checks from the CivilServe accounting system as well as reconciling the bank account. Also recommended by the CPA firm and not implemented is the bank reconciliation function requires a segregation of duties, which means that the person who performs the bank reconciliations should not also have access to the recording of transactions in the accounting records or processing of cash disbursements or receipts.

The following is an excerpt from the previous audit we performed on this account as well as OCSO corrective action to be implemented to rectify the situation. Based on our examination of bank reconciliations, OCSC has implemented an administrator signing off attesting to a review taking place.

AMOUNT DUE ATTORNEYS

BB. We noted the Deputy prepares the daily cash deposit, processes the monthly distribution checks including the check to the CFO for fees and poundage, enters an ACH for each payee receiving an E-check into the Chase Access Website and prepares the monthly bank reconciliation. This represents a lack of segregation of duties. The general rule should be that no one person can control enough of any transaction so an error or irregularity could occur, during their normal course of duties as they could hide or falsify the transaction and conceal errors to avoid detection.

Recommendation:

33. *We recommend the Sheriff's Office assign an individual independent of these functions to reconcile the account on a monthly basis. We also recommend management review the reconciliation, sign off and date as evidence of review.*

OCSO Action:

The monthly reconciliation is now reviewed and signed by the Civil Lieutenant. The reconciliation is then sent to the Command Staff for management review.

The Sheriff's Office implemented a form titled Daily Cash Reconciliation. That form is signed by the two clerks completing the day end balancing. When the deposit is being prepared on the next business day, the deputy preparing the deposit and one of the clerks that participated in the balancing on the previous day verify the cash with a signature on the form.

The monthly distribution checks are prepared by the deputy then signed by the Civil Chief.

Although the deputy enters the ACH for each payee receiving an E-check into the Chase Access website, payments are reviewed and approved by a supervisor.

Recommendation:

We recommend the department delegate another employee to perform one of these functions. Sheriff's administration should also, contact the County's Financial Operations Director and inquiry as to who is their assigned fiscal liaison and their availability to assist in financial matters or it should explore other options.

3. **Finding:** We noted bank accounts are not being reconciled as per the Onondaga County Sheriff's Office Written Directive for "CVL-008 Financial Transactions", Disbursements §1.I, "Every bank account controlled by the civil office shall be reconciled monthly by the Civil Fiscal Deputy, no later than the 10th day of the month following the monthly period to be reported". During the 4 months tested, we noted 3 of these months were reconciled after the 10th of the following month as illustrated in the following table:

<u>Civil Checking Account</u>		
Bank Reconciliations Completed After the 10th of the Month		
Month	Date Reconciled	Days Exceeding
January	February 14, 2023	4
February	March 15, 2023	5
March	April 27, 2023	17

Recommendation:

We recommend the department adhere to their current directive or consideration be given to updating the directive to present practices.

Unclaimed Funds:

4. **Findings:** During our examination of checks written to NYS to remit unclaimed funds we noted the following issues resulted from permitting one individual to perform incompatible functions which allowed for errors and irregularities to be concealed while performing their normal course of duties. These are listed below:

- Checks written to NYS Unclaimed funds from 2018 – 2020 were voided at some point after the check was written and not cashed.
- There were two checks written in 2021 that were marked cleared (cashed) in CivilServe. However upon reviewing the bank statements it was determined they were not cashed by the bank and should have been listed as outstanding.

These irregularities may have been questioned if another individual independent of the check/payment issuing function had been responsible for preparing the bank reconciliation.

- An ACH (Automated Clearing House) transfer in 2021 was flagged and returned to the County because the bank determined account receiving the funds was not a New York State Unclaimed Funds account but a personal individual bank account.

This irregularity may have been questioned if another individual independent of the check/payment issuing function, such as an administrator reviewed and approved ACH payments prior to their submission. As indicated in the CPA’s report currently any action related to disbursements requires a “two touches”. One person can create/initiate a payment but it will not be released until is approved by a separate individual.

- The last check written in 2021 payable to New York State Unclaimed Funds in the CivilServe system, was cashed per the bank, yet the payee listed on the physical check and the same payee that endorsed the back of that check was Onondaga County Financial Operations. This check was received by the County and marked as if it were poundage being paid by the Sheriff’s Office. This seems to indicate the individual had the ability to override system controls to change the payee on the physical check.

These could have been avoided had the responsibilities of issuing payments been assigned to another individual independent of entering and updating payment records into CivilServe. Another added layer of controls might be to have another individual perform the review or oversee the process of determining and remitting abandoned funds to NYS.

The following table illustrates payments to New York State Unclaimed Funds per CivilServe’s check register for the listed time period and its outcome.

Checks/ACH Noted in CivilServe Ledger To Be Made Out to NYS Unclaimed Funds					
Date	Check/ACH	Ident Number	Amount	Cashed Per Bank	Notes
6/26/2018	Check	121483	\$ 4,046.93	NO	Check voided in CivilServe in 2019
1/11/2019	Check	122559	\$ 43.14	NO	Check voided in CivilServe in 2019
2/6/2019	Check	122616	\$ 20,350.59	NO	Check voided in CivilServe in 2019
2/11/2019	Check	122735	\$ 20,307.45	NO	Check voided in CivilServe in 2019
3/6/2019	Check	122791	\$ 29,832.29	NO	CivilServe ledger shows check was last printed 8/4/2020
8/18/2020	Check	125618	\$ 37,241.10	NO	Voided in CivilServe 4/12/2021
4/12/2021	Check	126712	\$ 37,241.10	NO	Marked as cleared from bank in CivilServe
5/10/2021	Check	12810	\$ 16,936.55	NO	Marked as cleared from bank in CivilServe
12/10/2021	ACH	E312191	\$ 41,372.15	NO - Returned	Flagged and returned due to bank seeing it was being sent to a personal non-business account
12/14/2021	Check	127581	\$ 41,372.15	YES	CivilServe check register lists check payee as NYS Unclaimed Funds, yet actual check payee Onondaga County and was cashed by OC Finance 12/16/2021
			\$ 248,743.45		

5. **Finding:** It does not appear NYS received a payment for abandoned funds during 2018 through 2021 from the OCSO. We requested but the OCSC was unable to provide

documentation to support their due diligence efforts as outlined in the NYS Comptroller’s handbook for Reporters of Unclaimed Funds.

- 6. **Finding:** Per the state, interest charges apply for late payment or delivery of abandoned property. Penalties apply if you’re required to report and remit unclaimed funds, but fail to send full and complete reports, affidavits, or remittances by the due date. Since it appears nothing was ever sent, the County could be liable for interest and penalties in addition to the unclaimed funds to the state. Per NYS, if you fail to file full and complete reports or required affidavits, you may be subject to penalties of \$100 for each day the report or affidavit shall be willfully delayed or withheld. Since no funds were actually turned over to New York State, the County Sheriff’s Office could be responsible for \$100 a day since 2018. Below depicts the possible penalties for each year the proper paperwork was withheld from the state.

<u>Possible Penalties for Failing to Turn Over Unclaimed Funds</u>				
Year	Penalty (Per Day)	Days in Year	For Term of Years	Total Possible Penalties
2018	\$100	365	5	\$182,500
2019	\$100	365	4	\$146,000
2020	\$100	366	3	\$109,800
2021	\$100	365	2	\$73,000
2022	\$100	365	1	\$36,500
Total Possible Penalties				\$547,800

Recommendation:

We recommend the department administration and assigned staff become familiar with the NYS Comptroller’s handbook for Reporters of Unclaimed Funds.

SECTION V MANAGEMENT RESPONSE

Response to Audit Report on the Onondaga County Sheriff's Office

Civil Bank Account

September 25, 2024

By Chief Lisa Dell

First and foremost, I would like to thank the County Comptroller for the time and effort that his staff dedicated to the above listed audit.

Each section will be addressed in the order it was outlined in the report provided.

BACKGROUND & EXECUTIVE SUMMARY:

This office recognizes that we must follow procedures set forth by the NYS Comptroller's office for abandoned or unclaimed monies. We are working with County Finance and our banking institution to establish a separate Trust and Agency Bank account to retain those funds after 180 days if the check (s) issued have not been cashed. We are in the process of hiring a person to be assigned the investigative work, utilizing all available resources within the Sheriff's Office to locate anyone due monies held past 180 days. **We will also ensure that proper training is provided and that moving forward there will be an adherence to OCSO and NYS Office of Unclaimed Funds policies and procedures.**

We recognize the incompatible job responsibilities regarding disbursements and bank reconciliations. We will be seeking authorization by the end of 2024 to add an Accountant 1 to our roster whose duties would only be the accounting portion within the Civil Department to include the unclaimed fund process and not co-mingled with entering transactions, voiding checks and posting payments. We have separated duties from the Administrative Aid position and this position will no longer be doing the bank reconciliation of the Civil Bank Account.

We have already set up wire (ACH) transfer of monies for poundage and fees owed to County Finance instead of sending a check.

CIVIL BANK ACCOUNT: (Response to recommendations 1- 6)

1.FINDINGS - Recommendation: We recommend to safe guard unclaimed funds after the 180 days and facilitate the Sheriff's reconciliation process as well as circumventing the misappropriation of these funds, Sheriff's administration should work closely with the County's Finance department to create a Trust and Agency Fund, establish controls, procedures, and assign responsibilities for depositing and tracking these funds until which time they should be reported to the OUF. Assigned employees should become familiar with the procedures outlined in the Unclaimed Funds Handbook. We further suggest

Sheriff's administration implement procedures and controls to more closely monitor and contact payees with multiple outstanding checks, such as professional law offices which more than likely have a website and contact information should be readily available. It should also resolve the outstanding checks payable to Onondaga County. Consideration should be given to wiring funds to Onondaga County.

The Civil Office is currently working with County Finance and our banking institution to establish a separate Trust and Agency Bank account to retain those funds after 180 days if the check (s) issued have not been cashed. We are in the process of hiring an individual to be assigned the investigative work, utilizing all available resources, to locate anyone due monies held past 180 days. **We will be seeking authorization by the end of 2024 to add an Accountant 1 to our roster whose duties would only be the accounting portion within the Civil Department to include the unclaimed fund process and not co-mingled with entering transactions, voiding checks and posting payments.**

In addition, CVL-008 will be updated with any new policy and procedures handling abandoned funds.

2. FINDINGS-Recommendation: We recommend the department delegate another employee to perform one of these functions. Sheriff's administration should also, contact the County's Financial Operations Director and inquiry as to who is their assigned fiscal liaison and their availability to assist in financial matters or it should explore other option.

The Administrative Aid will no longer be assigned the function of preparing the monthly bank reconciliation. **In addition, we will be seeking authorization by the end of 2024 to add an Accountant 1 to our roster whose duties would only be the accounting portion within the Civil Department to include the unclaimed fund process and not co-mingled with entering transactions, voiding checks and posting payments.**

3. FINDINGS- Recommendation: We noted bank accounts are not being reconciled as per the Onondaga County Sheriff's Office Written Directive for "CVL-008 Financial Transactions", Disbursements §1. I., "Every bank account controlled by the civil office shall be reconciled monthly by the Civil Fiscal Deputy, no later than the 10th day of the month following the monthly period to be reported". We recommend the department adhere to their current directive or consideration be given to updating the directive to present practices.

OCSO directive CVL-008 has been updated to reflect that "every bank account controlled by the Civil Office shall be reconciled monthly by the Administrative Assistant no later than the 15th of the month".

4., 5., 6. UNCLAIMED FUNDS-Recommendation: We recommend the department administration and assigned staff become familiar with the NYS Comptroller's handbook for Reporters of Unclaimed Funds.

The Civil Chief and the assigned staff for the abandoned funds Trust and Agency bank account will review the handbook for Reporter of Unclaimed funds and adhere to the stated policy and procedures.